

BOMBAY ACT No. LXIX OF 1948¹.

[THE BOMBAY HOUSING BOARD ACT, 1948.]*

[30th December 1948]

Amended by Bom. 19 of 1949.

" " " 8 of 1950.

Adapted and modified by the Adaptation of Laws Order, 1950.

Amended by Bom. 49 of 1950.

" " " 11 of 1951.

" " " 46 of 1951.

" " " 32 of 1952.

" " " 25 of 1955.

Adapted and modified by the Bombay Housing Board (Reconstitution) Order, 1960.²

Adapted and modified by the Bombay Housing Board (Dissolution and Reconstitution) Order, 1960.

Adapted and modified by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

Amended by Mah. 7 of 1963.

" " " 3 of 1964. Amended by Mah. 28 of 1971.

" " " 10 of 1964. " " " 31 of 1971.

" " " 28 of 1969. " " " 23 of 1972.

" " " 56 of 1969.† " " " 35 of 1973‡(2-7-1973)§

" " " 15 of 1971 " " " 48 of 1973 ¶(11-10-1973)§

" " " 33 of 1975

An Act to provide for measures to be taken to deal with and satisfy the need of housing accommodation.

WHEREAS it is expedient to take such measures, to make such schemes and to carry out such works as are necessary for the purpose of dealing with and satisfying the need of housing accommodation and with that object in view it is necessary to establish a Board and to make certain other provisions hereinafter appearing ; It is hereby enacted as follows :—

CHAPTER I.**PRELIMINARY.**

1. (1) This Act may be called the Bombay Housing Board Act, 1948.

³[(2) It extends to the Bombay and Hyderabad areas of the State of Maharashtra.] Short title, extent and commencement.

(3) It shall come into force ⁴[in such local areas of the State, and on such dates as the State Government may, from time to time,] by notification in the *Official Gazette*, direct.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(1) " adjoining area " means such area as may be specified to be in adjoining area under section 24 ;

⁵[(1A) " apartment " means an apartment within the meaning of the Maharashtra Apartment Ownership Act, 1970 ;]

(2) " betterment charges " means the charges leviable under section 43 ;

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1948, Part V, page 590

² This Order was published in Government of India, Ministry of Home Affairs, Notification No. G.S.R. 176(8/3/59-SR(R)-12, dated the 12th February 1960.

³ Sub-section (2) was substituted by Mah. 7 of 1963, s. 3(1).

⁴ These words were substituted for the words " in such area and on such date as the State Government may ", *ibid.*, s. 3(2).

⁵ Clause (1-A) was inserted by Mah. 15 of 1971, Sch.

^{*} This Act was extended to the Hyderabad area of the State of Maharashtra (*vide* Mah. 7 of 1963, s. 2).

† Maharashtra Ordinance No. XIII of 1969 was repealed by Mah. 56 of 1969, s. 3.

‡ Maharashtra Ordinance No. X of 1973 was repealed by Mah. 35 of 1973, s. 6.

§ This indicates the date of commencement of Act.

¶ Maharashtra Ordinance No. XIII of 1973 was repealed by Mah. 48 of 1973, s. 13.

(3) "Board" means the ¹[Maharashtra Housing Board] constituted under section 3 ;

²[(3-A) "Board premises" means any premises belonging to or vesting in the Board or taken on lease by the Board or entrusted to the Board under this Act for management and use for the purposes of this Act ;]

(4) "building materials" means such commodities or articles as are specified to be building materials for the purposes of this Act by the ³[State] Government by notification in the *Official Gazette* ;

⁴[(4A) "building" includes a building within the meaning of the Maharashtra Apartment Ownership Act, 1970 ;] Mah. XV of 1971.

(5) "by-laws" means by-laws made under section 68 ;

⁵[(6) "Chairman" and "vice-Chairman" means the Chairman and the Vice-Chairman respectively, of the Board ;]

⁶[(6A) "competent authority" means an officer appointed as the competent authority under section 53A1 ;]

⁷[(7) "Corporation" means the Municipal Corporation of Greater Bombay, or the Municipal Corporation of the City of Poona or of any other City constituted under the Bombay Provincial Municipal Corporations Act, 1949 ;] Bom. LIX of 1949.

(8) "Housing Scheme" means a Housing Scheme made under this Act ;

(9) "Land" includes benefits to arise out of land and things attached to the earth or permanently fastened and things attached to the earth or permanently fastened to anything attached to the earth ;

⁸[(9A) "Land Acquisition Act" means—

(a) in relation to the Bombay area of the State, the Land Acquisition Act, 1894, and the Land Acquisition (Bombay Amendment) Act, 1948 ; and

(b) in relation to the Hyderabad area of the State, the Land Acquisition Act (1309 Fasli) ;] I of 1894. Bom. V of 1948. Hyd. IX of 1309 Fasli.

⁹[(10) "member" means the Chairman ¹⁰[, the Vice-Chairman] and other members of the Board ;] Bom. III of 1901.

¹¹[(10AA) "municipality" means a municipality (including a notified area committee) constituted under the Bombay District Municipal Act, 1901 or the Bombay Municipal Boroughs Act, 1925 or a municipal or town committee constituted under the Hyderabad District Municipalities Act, 1956 ;] Bom. XVII of 1925.

¹²[(10A) "premises" means any ¹³[land or] building or part of a building ¹⁴[including any apartment therein] and includes,—

(i) gardens, grounds and out-houses, if any, appertaining to such building or part of a building ; and

(ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof ;] Hyd. XVIII of 1956.

¹ These words were substituted for the words "each of the Housing Boards" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

² Clause (3A) was inserted by Bom. 32 of 1952, s. 2(1).

³ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

⁴ Clause (4A) was inserted by Mah. 15 of 1971, Sch.

⁵ Clause (6) was substituted by Mah. 48 of 1973, s. 2(a).

⁶ This clause was substituted by Mah. 3 of 1964, s. 2(1).

⁷ Clause (7) was substituted for the original by Mah. 7 of 1963, s. 4(1).

⁸ Clause (9A) was inserted, *ibid.*, s. 4(2).

⁹ This clause was substituted for the original by Mah. 3 of 1964, s. 2(2).

¹⁰ The words were inserted by Mah. 48 of 1973, s. 2(b).

¹¹ Clause (10AA) was inserted by Mah. 7 of 1963, s. 4(3).

¹² Clause (10A) was inserted by Bom. 32 of 1952, s. 2(3).

¹³ These words were inserted by Bom. 25 of 1955, s. 2(2).

¹⁴ These words were inserted by Mah. 15 of 1971, Sch.

(11) "prescribed" means prescribed by rules ;

1* * * * *

(13) "regulations" means regulations made under section 67 ;

(14) "rules" means rules made under section 66 ;

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(16) "Tribunal" means the Tribunal constituted under section 49 ;

(17) "year" means the year commencing on the 1st day of April and ending on the 31st day of March ;

²[(18) "Zilla Parishad" means a Zilla Parishad constituted under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961.]

Mah.
V of
1963.

2A. [Construction of certain references in their application to part of Mysore State to which the Act extends.] Omitted by the Bombay Housing Board (Dissolution and Reconstitution) Order, 1960.

CHAPTER II.

ESTABLISHMENT OF THE BOARD.

3. ³[(1) The State Government shall, by notification in the *Official Gazette*, incorporate and establish for the purposes of this Act a Board by the name of the Maharashtra, Housing Board].

4* * * * *

(2) The Board shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name and shall be competent to acquire and hold property both moveable and immoveable and to contract and do all things necessary for the purposes of this Act.

(3) For the purposes of this Act and ⁵[the Land Acquisition Acts,] the Board shall be deemed to be a local authority.

⁶[Explanation.—The purposes of this Act referred to in sub-section (3) include the management and use of lands and buildings belonging to or vesting in the Board under or for the purposes of this Act and the exercise of its rights over and with respect to such lands and buildings for the purposes of this Act.]

¹ Clauses (12) and (15) were deleted by Mah. 3 of 1964, s. 2(3).

² Clause (81) was added by Mah. 7 of 1963, s. 4(4).

³ Sub-section (1) was substituted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

⁴ Sub-sections (1A) and (1B) were omitted by the Bombay Housing Board (Dissolution and Reconstitution) Order, 1960.

⁵ These words were substituted for the portion "the Land Acquisition Act, 1894, and the Land Acquisition (Bombay Amendment) Act, 1948," by Mah. 7 of 1963, s. 5.

⁶ This Explanation was added by Bom. 11 of 1951, s. 2.

Removal of doubt regarding non-applicability of Bom. LVII of 1947 [or any corresponding law],

¹[3A. For the removal of doubt, it is hereby declared that the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 ²[or any law corresponding thereto for the time being in force in any area to which this Act extends,]—

(a) shall not apply nor shall be deemed to have ever applied to any land or building belonging to or vesting in the Board under or for the purposes of this Act ;

(b) shall not apply nor shall be deemed to have ever applied as against the Board to any tenancies or other like relationship created by the Board in respect of such land or building ;

(c) but shall apply to any land or building let to the Board.]

Bom. LVII of 1947.

³[Constitution of Board and removal of members].

4. ⁴[(1) The Board shall consist of a Chairman and a Vice-Chairman appointed by the State Government, and the following other members, that is to say:—

(a) twelve non-official members appointed by the State Government as follows:—

(i) one member, who in the opinion of the State Government, has special knowledge or practical experience in civil engineering or architecture ;

(ii) one member, who in the opinion of the State Government, has special knowledge of financial matters ;

(iii) five members representing Greater Bombay and Thana municipal area of whom one shall be from the City of Bombay, two from the Western Suburbs (comprising of H, K, P and R wards) of Greater Bombay and two from the Eastern Suburbs (comprising of L, M, N and T wards) of Greater Bombay and Thana municipal area ;

(iv) one member representing the Bombay Revenue Division (excluding Greater Bombay and Thana municipal area) ;

(v) one member representing the Poona Revenue Division ;

(vi) one member representing the Aurangabad Revenue Division ;

(vii) one member representing the tenants of the Board ;

(viii) one member representing the employees of the Board ;

(b) one officer of Government designated by the State Government in this behalf ;

(c) the Housing Commissioner, *ex-officio* ;

(d) the Chief Executive Officer of the Board, *ex-officio*, who shall also be the Secretary of the Board.]

⁵[(1A) The names of ⁶[the Chairman, the Vice-Chairman and other members] appointed under sub-section (1) shall be published in the *Official Gazette*.]

(2) Any member of the Board may at any time resign his office by submitting his resignation to the ⁷[State] Government :

Provided that the resignation shall not take effect until it is accepted.

⁸[(3) The State Government may, by notification in the *Official Gazette*, remove from office the Chairman ⁹[the Vice-Chairman] or any other member who—

(a) is, or has become, subject to any of the disqualifications mentioned in section 6 ; or

(b) in the opinion of the State Government has been guilty of any misconduct or neglect or has so abused his position as to render his continuance as member detrimental to the interests thereof or of the general public or is otherwise unfit to continue as member :

Provided that, no person shall be so removed from office unless he has been given an opportunity to show cause against his removal.]

¹ This section was inserted by Bom. 11 of 1951, s. 3.

² These words were inserted by Mah. 7 of 1963, s. 6(1).

³ These words were added, *ibid.*, s. 6(2).

⁴ This sub-section was substituted by Mah. 48 of 1973, s. 3(a).

⁵ This sub-section was inserted by Mah. 3 of 1964, s. 3(2).

⁶ These words were substituted for the words " the Chairman and other members " by Mah. 48 of 1973, s. 3 (b).

⁷ This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

⁸ This sub-section was inserted by Mah. 3 of 1964, s. 3(3).

⁹ These words were inserted by Mah. 48 of 1973, s. 3(c).

¹⁰ This marginal note was substituted for the original by Mah. 3 of 1964, s. 3(4).

1[4A. Until the Board is duly established under section 3, the existing Board functioning and operating in the Bombay area of the State immediately before the commencement of the Bombay Housing Board (Extension to Marathwada and Amendment) Act, 1962, shall be deemed to be the Board established for the purposes of this Act and shall function for the whole area to which this Act extends and on the establishment of the Board under the said section 3—

(a) the existing Board shall stand dissolved ;

(b) all properties, funds and dues which are vested in, or realisable by, the existing Board shall without further assurance vest in and be realisable by, the Board so established ; and

(c) all liabilities which were enforceable against the existing Board, shall be enforceable against the Board so established.]

Existing Board for Bombay area to continue until new Board established for the whole area to which Act extends.

5. The ²[State] Government may from time to time grant to the Chairman such leave as may be admissible under the rules. ³[During the period the Chairman is on leave, the Vice-Chairman shall act as Chairman and, while so acting, shall be deemed for all purposes of this Act to be the Chairman.]

Leave of absence of Chairman.

6. (1) A person shall be disqualified for being appointed or continuing as ⁴[the Chairman, the Vice-Chairman or other member] of the Board, if he—

(a) holds any office or place of profit under the Board ;

(b) is of unsound mind ,

(c) is an uncertificated bankrupt or an undischarged insolvent ,

(d) has directly or indirectly by himself or by any partner, any share or interest in any contract or employment with, by or on behalf of, the Board, or

(e) is a Director or a Secretary, Manager or other salaried officer of any incorporated company which has any share or interest in any contract or employment with, by or on behalf of, the Board, ⁵[for

(f) has been or is convicted of any offence involving moral turpitude :]

Disqualifications for appointment on Board.

⁶[Provided that, nothing contained in clause (a) shall apply to the Chairman, the Vice-Chairman, the Housing Commissioner or the Chief Executive Officer or any employees of the Board appointed by the State Government as a member of the Board.]

(2) A person shall not, however, be disqualified under clause (d) or (e) of sub-section (1) or be deemed to have any share or interest in any contract or employment within the meaning of these clauses, by reasons only of his or the incorporated company of which he is a Director, Secretary, Manager or other salaried officer having a share or interest in any newspaper in which any advertisements relating to the affairs of the Board is inserted.

(3) A person shall not also be disqualified under clause (d) or (e) of sub-section (1) or be deemed to have any share or interest in any incorporated company which has any share or interest in any contract or employment with, by or on behalf of, the Board, by reason only of his being a shareholder of such company :

Provided that such person discloses to the ²[State] Government the nature and extent of the shares held by him.

¹ Section 4A was substituted for the original by Mah. 7 of 1963, s. 7.

² This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

³ This portion was substituted for the portion beginning with the words " and any person " and ending with the words " to be the Chairman," by Mah. 48 of 1973, s. 4.

⁴ These words were substituted for the words " the Chairman or member ", *ibid.*, s. 5(a).

⁵ This portion was added by Mah. 3 of 1964, s. 4.

⁶ This proviso was substituted by Mah. 48 of 1973, s. 5(b).

7. ¹[(1) The Chairman and every other member (not being) ²[the Vice-Chairman or] a member *ex-officio* shall hold office for a period of three years from the date of his appointment as Chairman, or as the case may be, other member :

Provided that, the State Government may extend the said period by a further period not exceeding one year :

Provided further that, after the expiry of the period of his appointment, a person shall, unless disqualified, be eligible for re-appointment as Chairman or member.]

(2) Every member shall receive such allowances as may be prescribed.

⁴[(3) The Chairman may hold office in an honorary capacity or on payment of remuneration. If any remuneration is to be paid to the Chairman, such remuneration and other conditions of service shall be such as may be prescribed.]

(4) The allowances to the members and the remuneration ⁵[,if any,] to the Chairman shall be paid from the fund of the Board.

⁶[7A. (1) The Vice-Chairman shall devote the whole of his time to the duties of his office and the Housing Commissioner and all other officers of the Board shall be subordinate to him. His term of office and other conditions of service shall be such as may be determined by the State Government from time to time.

(2) The Vice-Chairman shall exercise such powers and perform such duties of the Chairman by or under this Act, as the Chairman may, from time to time, by order in writing, delegate to him. He shall exercise such other powers and perform such other duties as are conferred on him by or under this Act or are entrusted to him by the Board or the State Government].

8. If a member,—

(a) becomes subject to any of the disqualifications mentioned in section 6,

(b) tenders his resignation in writing to the ⁷[State] Government, or

(c) is absent without the permission of the Board from all the meetings of the Board for a period of two successive months,
he shall cease to be a member.

9. Any vacancy of a member of the Board shall be filled in as early as practicable :

Provided that during any such vacancy the continuing members may act, as if no vacancy had occurred.

10. No disqualification of or defect in the appointment of any person acting as ⁸[Chairman, Vice-Chairman or any other member] of the Board shall be deemed to vitiate any act or proceeding of the Board, if such act or proceeding is otherwise in accordance with the provisions of this Act.

11. If any member of the Board other than the Chairman is by infirmity or otherwise rendered temporarily incapable of carrying out his duties or is absent on leave or otherwise not involving the vacation of his appointment, the ⁷[State] Government may appoint another person to officiate for him and carry out his functions under this Act or any rule or regulation made thereunder.

⁹[12. (1) The Board shall have a Housing Commissioner, ¹⁰[a Financial Adviser, a Chief Executive Officer,] one or more Assistant Housing Commissioners, a Chief Accounts Officer and such other officers and servants as the Board may consider necessary for the efficient performance of its functions.

¹ This sub-section was substituted for the original by Mah. 3 of 1964, s. 5(1).

² These words were inserted by Mah. 48 of 1973, s. 6.

³ These words were substituted for the words "of member" by Mah. 3 of 1964, s. 52.

⁴ Sub-section (3) was substituted for the original by Bom. 32 of 1952, s. 3(1).

⁵ These words were inserted, *ibid.*, s. 3(2).

⁶ Section 7A was inserted by Mah. 48 of 1973, s. 7.

⁷ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

⁸ These words were substituted for the words "Chairman or a member" by Mah. 48 of 1973, s. 8.

⁹ This section was substituted for the original by Mah. 3 of 1964, s. 6.

¹⁰ These words were inserted by Mah. 48 of 1973, s. 9(a).

(2) The appointments of the Housing Commissioner, ¹[Financial Adviser, Chief Executive Officer,] Assistant Housing Commissioners and Chief Accounts Officer shall be made by the State Government, and the appointments of other officers and servants of the Board shall be made by the Board :

Provided that, the Board shall not appoint any officer in the scale of pay the maximum of which exceeds one thousand and two hundred rupees a month, without obtaining the previous sanction of the State Government.

(3) The Board shall have power to create any post on its establishment :

Provided that, no new post the scale pay of which exceeds one thousand and two hundred rupees per month shall be created by the Board, without the previous sanction of the State Government.]

Conditions of service of officers and servants. 13. The remuneration and other conditions of service of the ²* * Housing Commissioner and other officers and servants of the Board shall be such as may be determined by regulations.

Provident Fund. ³[13A. ⁴(1) The State Government shall establish a provident fund for the Housing Commissioner, ⁵[Financial Adviser, Chief Executive Officer,] Assistant Housing Commissioners, Chief Accounts Officer and other officers and servants of the Board and such provident fund (hereinafter called "the said fund") shall, notwithstanding XIX of anything contained in section 8 of the Provident Funds Act, 1925, be deemed to be a Government Provident Fund for the purposes of the said Act; and such fund 1925 may be administered by such officers of the State Government, or of the Board as the State Government may specify in that behalf.]

(2) The Board shall, in respect of each of its employees who is a subscriber to the said fund, pay into the said fund such portion of the contribution in such manner as the State Government may, from time to time, determine.]

Absorption of existing staff of Bombay Provincial Housing Board by the Board. 14. (1) The Board shall take over and employ such of the existing staff serving for the purposes of the Bombay Provincial Housing Board constituted by Government Resolution, Political and Services Department, No. 459/46, dated 18th January 1947 as the ⁶[State] Government may direct and every person so taken over and employed shall be subject to the provisions of this Act and the regulations made thereunder :

Provided—

(a) that during the period of such employment, all matters relating to the pay, leave, retirement, allowances, pensions, provident fund and other conditions of service of the members of the said staff shall be regulated by the Bombay Civil Services Rules or such other rules as may from time to time be made by the ⁶[State] Government ;

(b) that any such member shall have a right of appeal to the ⁶[State] Government against any order of reduction, dismissal or removal from service, fine or any other punishment.

(2) All permanent servants of the said staff taken over and employed by the Board under sub-section (1) shall have a lien on their posts in the service of the ⁶[State] Government and the period of their service under the Board shall, on their reversion to the service of the ⁶[State] Government, be counted for their increments, pension and other matters relating to their service.

¹ These words were inserted by Mah. 48 of 1973, s. 9(b).

² The word "Secretary" was deleted by Mah. 3 of 1964, s. 7.

³ This section was inserted by Bom. 46 of 1951, s. 5.

⁴ This sub-section was substituted by Mah. 3 of 1964, s. 8.

⁵ These words were inserted by Mah. 48 of 1973, s. 10.

⁶ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

¹[14A. Before the first day of May of every year, the Board shall prepare and maintain a schedule of establishment as on the first day of April of that year showing,—

(i) the number, designations and grades and scales of pay of the officers and servants (other than the employees who are paid by the day or whose pay is charged to temporary work), whom it considers necessary and proper to employ for the purposes of this Act ;

(ii) the amount and nature of the salary, fees and allowances to be paid by the Board to each such officer or servant ;

(iii) the amount to be paid by the Board towards leave salary, pension, provident fund or any other purpose in respect of each such officer or servant.]

15. No person who has directly or indirectly by himself or his partner or agent any share or interest in any contract, by or on behalf of the Board, or in any employment under, by or on behalf of the Board otherwise than as an officer or servant thereof, shall become or remain an officer or servant of the Board.

²[16. (1) Subject to any rules made in this behalf, the Board may ³[and when so directed by the State Government the Board shall,] from time to time appoint one or more Committees for the purpose of securing the efficient discharge of its functions, and in particular for the purpose of securing that the said functions are exercised with due regard to the circumstances and requirements of particular local areas.

(2) Any Committee appointed under sub-section (1) shall meet to discharge the functions assigned to it in such manner as may be directed by the Board.

(3) The State Government shall appoint a Housing Advisory Council. The functions of the Council shall be to advise Government on such matters as may be determined by the State Government. The Housing Advisory Council shall meet every six months to discharge the functions assigned to it in such manner as may be directed by the State Government.]

Conduct of Business.

17. The Board shall meet and shall from time to time make such arrangements with respect to the day, time, notice, management and adjournment of its meetings as it thinks fit, subject to the following provisions, namely :—

(a) an ordinary meeting shall be held once at least every ⁴[month],

(b) the Chairman may, whenever he thinks fit, call special meetings,

(c) every meeting shall be presided over by the Chairman and in his absence, ⁵[by the Vice-Chairman, and in the absence of both,] by any member chosen by the meeting to preside for the occasion,

(d) all questions at any meeting shall be decided by a majority of the members present and in case of equality of votes, the person presiding shall have and exercise a second or casting vote,

(e) the minutes of the proceedings of each meeting shall be recorded in a book to be provided for the purpose.

⁶[18. (1) The Board may associate with itself, any person whose assistance or advice it may desire for carrying into effect any of the provisions of this Act:

Provided that, the number of persons so associated shall not be more than three.

(2) A person associated with the Board under sub-section (1) for any purpose shall have the right to take part in the deliberations of the Board relevant to that purpose, but shall not have the right to vote.

¹ This section was inserted by Mah. 2 of 1964, s. 9.

² This section was substituted for the original by Mah. 3 of 1964, s. 10.

³ These words were inserted by Mah. 48 of 1973, s. 11.

⁴ This word was substituted for the word " fortnight ", *ibid.*, s. 12(a).

⁵ These words were inserted, *ibid.*, s. 12(b) .

⁶ This section was substituted for the original by Mah. 3 of 1964, s. 11.

(3) The State Government may, by order, depute its representatives to attend any meeting of the Board and to take part in the deliberations of the Board, on such items or subjects as the State Government may specify, but such representatives shall not have the right to vote.]

Contracts.

19. The Board may enter into and perform all such contracts as it may consider necessary or expedient for carrying out any of the purposes of this Act.

20. (1) Every contract shall be made on behalf of the Board by the Chairman :
Provided that—

(a) no contract involving an expenditure of ¹[rupees twenty lacs] and more shall be made without the previous sanction of the ²[State] Government,

(b) no contract involving an expenditure of ⁴[five thousand rupees] and more shall, subject to clause (a) above, be made without the previous sanction of the Board.

(2) Sub-section (1) shall apply to every variation or abandonment of a contract or estimate as well as to an original contract or estimate.

21. Subject to any rule which the ²[State] Government may make in this behalf, the Board may by order direct that the power conferred on it under section 20 to sanction a contract shall be exercised by the Housing Commissioner or any other officer specified by it in the order.

22. (1) Every contract by the Chairman on behalf of the Board shall, subject to the provisions of this section, be entered into in such manner and form as may be prescribed.

(2) A contract not executed as provided in this section and the rules made thereunder shall not be binding on the Board.

CHAPTER III.

HOUSING SCHEMES.

23. (1) Subject to the provisions of this Act and subject to the control of the State Government, the Board may, from time to time, incur expenditure and undertake works in any area in which this Act is in force for the framing and execution of such housing schemes as it may consider necessary.

(2) The State Government may, on such terms and conditions as it may think fit to impose, entrust to the Board the framing and execution of any housing scheme whether provided for by this Act or not, and the Board shall thereupon undertake the framing and execution of such scheme as if it had been provided for by this Act.

(3) The Board may, on such terms and conditions as may be agreed upon and with the previous approval of the State Government, take over for execution any housing scheme on behalf of a local authority or co-operative society or on behalf of an employer when the houses are to be built mainly for the residence of his employees, and the Board shall execute such scheme as if it had been provided for by this Act.]

¹ These words were substituted for the words " rupees fifteen lacs " and " rupees three thousand " respectively, by Mah. 3 of 1964, s. 12.

² This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

³ This section was substituted for the original by Mah. 3 of 1964, s. 13.

24. Notwithstanding anything contained in any other law for the time being in force, a housing scheme may provide for all or any of the following matters, namely :—

Matters to be provided for by housing schemes.

(a) the acquisition by purchase, exchange or otherwise of any property necessary for or affected by the execution of the scheme ;

(b) the laying or relaying out of any land comprised in the scheme ;

(c) the distribution or redistribution of site belonging to owners of property comprised in the scheme ;

¹[(cc) slum clearance ;]

(d) the closure or demolition of dwellings or portions of dwellings unfit for human habitation ;

(e) the demolition of obstructive buildings or portions of buildings ;

(f) the construction and reconstruction of buildings ;

(g) the sale, letting or exchange of any property comprised in the scheme ;

²[(gg) the sale of apartment in any building or buildings constructed by the Board on such terms and conditions as the Board may determine ;]

(h) the construction and alteration of streets and back lanes ;

(i) provision of the draining, water-supply and lighting of the area included in the scheme ;

(j) the provision of parks, playing-fields and open space for the benefit of any area comprised in the scheme or any adjoining area, and the enlargement of existing parks, playing-fields, open spaces and approaches ;

³[(ja) the reclamation or reservation of lands for markets, gardens, playing-fields, schools, dispensaries, hospitals and other amenities in the scheme ;

(jb) the letting out, management and use, of the Board premises ;]

(k) the provision of sanitary arrangements required for the area comprised in the scheme, including the conservation and prevention of any injury or contamination to rivers or other sources and means of water supply ;

(l) the provision of accommodation for any class of inhabitants ;

(m) the advance of money for the purpose of the scheme ;

(n) the provision of facilities for communication and transport ;

(o) the collection of such information and statistics as may be necessary for the purposes of this Act ;

(p) any other matter for which, in the opinion of the ⁴[State] Government, it is expedient to make provision with a view to provide housing accommodation and to the improvement or development of any area comprised in the scheme or any adjoining area or the general efficiency of the scheme.

Explanation.—For the purpose of this section, the ⁴[State] Government may, on the recommendation of the Board, by notification in the *Official Gazette*, specify such area surrounding or adjoining the area included in a housing scheme to be the adjoining area.

¹ Clause (cc) was inserted by Mah. 28 of 1971, s. 48, Second Schedule.

² Clause (gg) was inserted by Mah. 15 of 1971, Sch.

³ Clauses (ja) and (jb) were inserted by Mah. 3 of 1964, s. 14.

⁴ This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

No housing scheme to be made for area included in improvement scheme or be inconsistent with town planning scheme. **25.** (1) No housing scheme shall be made under this Act for any area for which an improvement scheme has been sanctioned by the ¹[State] Government under ²[any enactment for the time being in force for the constitution of a municipal corporation for any area ³[in the State to which this Act extends], nor any housing scheme made under this Act contains anything which is inconsistent with any of the matters included in a town planning scheme sanctioned by the ¹[State] Government under the Bombay Town Planning Act, 1915 ⁴[or which is sanctioned (or the sanction for which is continued in force) by or under the Bombay Town Planning Act, 1954 or in any town planning scheme duly made by or under any corresponding law for the time being in force.]]

Bom.
I of
1915.
Bom.
XXV
II of
1955.

(2) If any dispute arises whether a housing scheme made under the Act includes any area included in an improvement scheme sanctioned under ⁵[any such enactment as aforesaid] or contains anything inconsistent with any matter included in a town planning scheme sanctioned under the Bombay Town Planning Act, 1915, ⁶[or which is sanctioned (or the sanction for which is continued in force) by or under the Bombay Town Planning Act, 1954, or in any town planning scheme duly made by or under any corresponding law for the time being in force,] the decision of the ¹[State] Government shall be final.

Bom.
I of
1915.
Bom.
XXV
II of
1955.

Submission of budget to Board. **26.** (1) The Chairman shall, at a special meeting to be held in the month of February in each year, lay before the Board, a budget of the Board for the next year.

(2) Every such budget shall be prepared in such form as may be prescribed and shall make provision for—

(i) the housing schemes which the Board proposes to execute whether in part or whole during the next year,

(ii) the due fulfilment of all the liabilities of the Board, and

(iii) the efficient administration of this Act,

and shall contain a statement showing the estimated receipts and expenditure on capital and revenue accounts for the next year, and such other particulars as may be prescribed.

¹ This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

² These words were substituted for the words and figures " Chapter XII-A of the City of Bombay Municipal Act, 1888 " by Bom. 59 of 1949, s. 491, App. III.

³ These words were substituted for the words " in the State of Bombay " by the Bombay Housing Board (Reconstitution) Order, 1960.

⁴ This portion was inserted by Mah. 7 of 1963, s. 8(1).

⁵ These words were substituted for the words and figures " the City of Bombay Municipal Act, 1888 " by Bom. 59 of 1949, s. 491, App. III.

⁶ This portion was inserted by Mah. 7 of 1963, s. 8(2).

⁷ Sections 26 to 31 were substituted for the original sections 26 to 33 by Mah. 3 of 1964, s. 15.

27. The Board shall consider the budget laid before it under the last preceding section and sanction it with or without modifications.

Board's sanction to budget.

28. (1) Every budget sanctioned by the Board under the last preceding section shall be submitted to the State Government for approval. At any time after the receipt of the Budget, the State Government may approve the budget as sanctioned by the Board or return it to the Board for making such modifications therein as the State Government may deem fit.

Submission of sanctioned budget to State Government for approval.

(2) Where a budget is returned to the Board by the State Government for making any modifications therein, the Board shall forthwith make such modifications and submit the budget as so modified to the State Government, which may then approve it.

29. The Chairman may, at any time during the year for which a budget has been approved by the State Government, lay before the Board a supplementary budget and the provisions of sections 26, 27 and 28 shall apply to such supplementary budget.

Supplementary budget.

30. After the budget is approved by the State Government, the Board shall cause the housing schemes, in respect of which provision is made in the budget, to be published in the *Official Gazette* in such manner as may be prescribed and proceed to execute the new schemes.

Publication and execution of housing schemes.

31. The Board may at any time vary any housing schemes or any part thereof included in the budget approved by the State Government :

Variation of housing schemes.

Provided that, no such variation shall be made if it involves an expenditure in excess of 10 per cent. of the amount as included in the budget approved by the State Government for the execution of any housing scheme or if it affect the scope or purpose of such scheme.]

34. (1) Whenever any street, square or other land or any part thereof situated in any area of a Corporation, municipality or *Zilla Parishad* and vested in the Corporation, municipality or *Zilla Parishad* constituted therefore, is ²[required for the purposes of any housing scheme included in the budget approved by the State Government], the Board shall give notice accordingly to the Corporation, municipality or *Zilla Parishad*, as the case may be.

Transfer to the Board for purposes of housing scheme of land vested in a Corporation, municipality or *Zilla Parishad*.

(2) Where the Corporation, municipality or *Zilla Parishad* concurs, such street, square or other land, or part thereof, shall vest in the Board.

Where there is any dispute, the matter shall be referred to the State Government. The State Government shall, after hearing the Corporation, municipality or *Zilla Parishad* concerned, decide the matter. The decision of the State Government shall be final. If the State Government decides that such street, square or other land thereof, shall vest in the Board, it shall vest accordingly.

¹ substituted for the original by Mah. 7 of 1963, s. 9.

² substituted for the words beginning with the words " within the area included and ending with words " in such programme " by Mah. 3 of 1964, s. 16.

(4) Nothing in this section shall affect the rights or powers of the Corporation, municipality or *Zilla Parishad* in or over any drain or water work in such street, square or land.]

Compensation in respect of land vested in the Board. 35. (1) Where any land vests in the Board under the provisions of section 34 and the Board makes a declaration that such land shall be retained by the Board only until it reverts in the Corporation, the municipality ¹[or the *Zilla Parishad*] as part of a street or an open space under section 38, no compensation shall be payable by the Board to the Corporation, the municipality ¹[or the *Zilla Parishad*], as the case may be, in respect of that land.

(2) Where any land vests in the Board under section 34 and no declaration is made under sub-section (1) in respect of the land, the Board shall pay to the Corporation, the municipality ¹[or the *Zilla Parishad*], as the case may be, as compensation a sum equal to the value of such land.

(3) If, in any case where the Board has made a declaration in respect of any land under sub-section (1), the Board retains or disposes of the land contrary to the terms of the declaration so that the land does not revert in the Corporation, the municipality ¹[or the *Zilla Parishad*], as the case may be, the Board shall pay to the Corporation, the municipality ¹[or the *Zilla Parishad*] compensation in respect of such land in accordance with the provisions of sub-section (2).

Power of Board to turn or close public street vested in it. 36. (1) The Board may turn, divert, discontinue the public use of, or permanently close, any public street vested in it or any part thereof.

(2) Whenever the Board discontinues the public use of, or permanently closes, any public street vested in it or any part thereof, it shall, as far as practicable, provide some other reasonable means of access to be substituted in lieu of the use, by those entitled, of the street or part thereof and pay reasonable compensation to every person who is entitled, otherwise than as mere member of the public, to use such street or part as a means of access and has suffered damages from such discontinuance or closing.

(3) In determining the compensation payable to any person under sub-section (2) the Board shall make allowance for any benefit accruing to him from the construction, provision or improvement of any other public street at or about the same time that the public street or part thereof, on account of which the compensation is paid, is discontinued or closed.

(4) When any public street vested in the Board is permanently closed under sub-section (1), the Board may sell or lease so much of the same as is no longer required.

Reference to tribunal in case of dispute under section 35 or 36. 37. If there is any dispute as to whether any compensation is payable under section 35 or as to the amount of compensation payable under section 35 or section 36, as the case may be, the matter shall be referred to the Tribunal.

¹ These words were substituted for the words " or the local board " by Mah. 7 of 1963, s. 10.

38. (1) Whenever the ¹[State] Government is satisfied—

(a) that any street laid out or altered by the Board has been duly levelled, paved, metalled, flagged, channelled, sewered and drained ²[as required for any housing scheme included in the budget approved by the State Government] under section 28, and

(b) that such lamps, lamp-posts and other apparatus as the Corporation, ³[the municipality or *Zilla Parishad*,] as the case may be, considers necessary for the lighting of such street and as ought to be provided by the Board have been so provided, and

(c) that water and other sanitary conveniences have been duly provided in such street,

Vesting in Corporation municipality ⁴[or *Zilla Parishad*] of streets laid out or altered and open space provided by the Board under housing scheme.

the ¹[State] Government may declare the street to be a public street, and the street shall thereupon vest in the Corporation, municipality ⁴[or *Zilla Parishad*] as the case may be, and shall thenceforth be maintained, kept in repair, lighted and cleaned by the Corporation, municipality ⁴[or *Zilla Parishad*].

(2) When any open space for purposes of ventilation or recreation has been provided by the Board in executing any housing scheme, ⁵[the Board may at its option by resolution transfer such open space to the local authority concerned on completion of the scheme and thereupon such open space shall vest in,] and be maintained at the expense of, the local authority :

Provided that the local authority may require the Board before any such open space is so transferred to enclose, level, turf, drain and lay-out such space and provide footpaths therein, and if necessary, to provide lamps and other apparatus for lighting it.

(3) If any difference of opinion arises between the Board and the Corporation, municipality ⁴[or *Zilla Parishad*] in respect of any matter referred to in the foregoing provisions of this section, the matter shall be referred to the ¹[State] Government whose decision shall be final.

⁶[39. (1) It shall be the duty of the Board to take necessary measures to maintain, allot, lease and otherwise use the Board premises and to collect rents, compensation and damages in respect thereof.

Other duties of the Board.

(2) The Board may,—

(i) provide technical advice to the State Government and scrutinize projects under housing schemes in the area to which this Act extends when required by the State Government to do so ;

(ii) undertake research on various problems connected with housing in general and find out in particular the economical methods of constructing houses suited to local conditions ;

(iii) undertake comprehensive surveys of problems of housing ;

(iv) do all thins for—

(a) unification, simplification and standardisation of building materials ;

¹ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

² These words were substituted for the words "in the manner provided in the programme sanctioned by the State Government" by Mah. 3 of 1964, s. 17(1).

³ These words were substituted for the words "the municipality or the local board" by Mah. 7 of 1963, s. 11(1)(a).

⁴ These words were substituted for the words "or local board" *ibid.*, s. 11.

⁵ These words were substituted for the portion beginning with the words "it shall on completion" and ending with the words "thereupon vest in" by Mah. 3 of 1964, s. 17(2).

⁶ This section was substituted for the original, *ibid.*, s. 18.

- (b) encouraging pre-fabrication and mass production of house components ;
 (c) organising or undertaking the production of building materials for residential or non-residential houses ;
 (d) securing a steady and sufficient supply of workmen trained in the work of construction of buildings.]

Board to assume management of requisitioned lands. **40.** The Board shall, subject to the general control of the ¹[State] Government, assume management of ²[all such lands requisitioned, or deemed to be requisitioned or continued to be subject to requisition, by or under the authority of the State Government under the Bombay Land Requisition Act, 1948 or by or under any corresponding law for the time being in force,] as the ¹[State] Government may direct. Bom. XXXIII of 1948.

Reconstitution of plots.

41. A housing scheme may provide—

- (a) for the formation of a reconstituted plot by the alterations of the boundaries of an original plot ;
 (b) with the consent of the owners that two or more original plots each of which is held in ownership in severalty or in joint ownership shall, with or without alteration of boundaries be held in ownership in common as a reconstituted plot ;
 (c) for the allotment of a plot to any owner dispossessed of land in furtherance of the housing scheme ; and
 (d) for the transfer of ownership of a plot from one person to another.

Power to exempt schemes from provisions of sections 26 [to 31].

3[41A.] The ¹[State] Government may, by general or special order published in the *Official Gazette*, exempt ⁴[any housing scheme undertaken by the Board] from all or any of the provisions of ⁵[sections 26 to 31 (both inclusive)] subject to such conditions, if any, as it may impose or may direct that any such provision shall ⁶[to 31]. apply to such scheme with such modifications as may be specified in the order.]

CHAPTER IV.

ACQUISITION AND DISPOSAL OF LAND.

Power to purchase or lease by agreement.

42. (1) The Board may enter into an agreement with any person for the acquisition from him by purchase, lease or exchange, of any land which is needed for the purposes of a housing scheme or any interest in such land or for compensating the owners of any such right in respect of any deprivation thereof or interference therewith.

(2) The Board may also take steps for the compulsory acquisition of any land or any interest therein required for the execution of a housing scheme in the manner provided in ⁷[the Land Acquisition Act], as modified by this Act and the acquisition of any land or any interest thereto for the purposes of this Act shall be deemed to be acquisition for a public purpose within the meaning of ⁷[the Land Acquisition Act].

Betterment charges.

43. (1) When by the making of a housing scheme any land in the area comprised in the scheme will in the opinion of the Board be increased in value, the Board in framing the scheme may declare that betterment charges shall be payable by the

¹ This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

² This portion was substituted for the portion beginning with the words " all such lands requisitioned " and ending with the words and figures " Requisition Act, 1948 " by Mah. 7 of 1963, s. 12.

³ Section 41A was inserted by Bom. 19 of 1949, s. 3.

⁴ These words were substituted for the words " any housing scheme entrusted by it to the Board " by Mah. 3 of 1964, s. 19(1).

⁵ These words, figures and brackets were substituted for the words, figures and brackets " section 26 to 33 (both inclusive) " *ibid.*, s. 19(2).

⁶ The word and figure were substituted for the word and figure " to 33 " *ibid.*, s. 19(3).

⁷ These words, were substituted for the words and figures " the Land Acquisition Act, 1894 " by Mah. 7 of 1963, s. 13.

owner of the land or any person having an interest therein in respect of the increase in value of the land from the execution of the scheme.

(2) Such increase in value shall be the amount by which the value of the land on the completion of the execution of the scheme estimated as if the land were clear of the buildings exceeds the value of the land prior to the execution of the scheme estimated in like manner and the betterment charges shall be one half of such increase in value.

(3) Such betterment charges shall also be leviable in respect of any land not comprised in the scheme but adjacent to the area comprised in the scheme.

¹[*Explanation.*—For the purpose of this sub-section, the State Government may, on the recommendation of the Board, by notification in the *Official Gazette*, declare such land which is situated near or contiguous or adjacent to any land comprised in a scheme to be adjacent to the area comprised in such scheme.]

44. (1) The Board shall give notice in the prescribed form to any person who is the owner of or has interest in the land in respect of which the betterment charges are to be levied and shall give such person an opportunity to be heard.

Notice to persons liable for betterment charges.

(2) After hearing such person or if such person fails to appear after the expiry of the period within which such person is required to appear before the Board, the Board shall proceed to assess the amount of betterment charges.

(3) Where the assessment of betterment charges proposed by the Board is accepted by the person concerned within the period prescribed, the assessment shall be final.

(4) If the person concerned does not accept the assessment proposed by the Board, the matter shall be referred to the Tribunal.

(5) The Tribunal shall, after holding an inquiry and after hearing the person concerned, assess the amount of the betterment charges payable by the person.

45. (1) Any person liable to pay betterment charges in respect of any land may at his option, instead of paying the same to the Board, execute an agreement with the Board to leave the payment outstanding as a charge on his interest in the land, subject to the payment in perpetuity of interest at such rate as may be prescribed.

Agreement for payment of betterment charges.

(2) Every payment due from any person in respect of betterment charges and every charge referred to in sub-section (1) shall, notwithstanding anything contained in any other enactment and notwithstanding the execution of any mortgage or charge, created either before or after the commencement of this Act, be the first charge upon the interest of such person in such land.

46. All sums payable in respect of any land by any person in respect of betterment charges under section 43 or by any person under an agreement under section 45 shall be recoverable on behalf of the Board as an arrear of land revenue.

Recovery of betterment charges.

47. ²[The Board] may retain, lease, sell, exchange or otherwise dispose of, any land, any building ³[or any apartment therein] or other property vesting in it and situate in the area comprised in housing scheme ⁴[permitted under this Act.]

Power to dispose of land.

¹ This *Explanation* was added by Mah. 3 of 1964, s. 20.

² These words were substituted for the words "Subject to any rules made by the State Government under this Act, the Board" by Mah. 15 of 1971, Sch.

³ These words were inserted, *ibid.*, Sch.

⁴ These words were substituted for the words "sanctioned under this Act" by Mah. 3 of 1964, s.21.

Disputes regarding reconstitution of plots. 48. (1) Where by the making of a housing scheme, any plots comprised in the area included in the scheme are reconstituted or any person is dispossessed, any person affected by such reconstitution or dispossession may apply to the Board for compensation. The Board may, after making such inquiry as it thinks fit, decide whether the applicant is entitled to any compensation and if so to what extent. If the person is dissatisfied with the decision of the Board in the matter, he may inform the Board accordingly. The Board shall thereupon refer the matter to the Tribunal.

(2) The Tribunal shall then after making an inquiry determine the amount of compensation and direct the Board to pay the same to the person entitled.

CHAPTER V.

TRIBUNAL.

Constitution of the Tribunal. 49. (1) The Tribunal shall consist of a President and two assessors. In Greater Bombay the President shall be such Judge of the Bombay City Civil Court as may be selected by the ¹[State] Government and elsewhere the District Judge. The assessors shall be appointed by the ¹[State] Government.

(2) Each assessor of the Tribunal shall receive such remuneration as the ¹[State] Government may determine. The remuneration shall be paid by the Board to the President of the Tribunal for distribution.

Duties of the Tribunal. 50. The Tribunal shall—

- (a) decide whether any compensation is payable under section 35 ;
- (b) decide the amount of compensation in matters referred to it under section 37 ;
- (c) decide disputes relating to betterment charges referred to it under section 44 ;
- (d) decide disputes relating to the reconstitution of plots referred to it under section 48 and the amount of compensation to be awarded in consequence thereof;
- (e) decide such other matters as may be prescribed by rules made in this behalf.

Powers of President. 51. (1) In the hearing and decision of any matters referred to the Tribunal under this Act,—

(a) if there is any disagreement between the President and the assessors of the Tribunal on a point of fact, the opinion of the majority shall prevail ; and

(b) if there is any disagreement between the President and the assessors of the Tribunal on a point of law or procedure, the assessors shall be bound by the opinion of the President.

(2) The decision of the President as to what is the question of law or fact shall be final.

¹ This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950 .

52. (1) In making inquiries under sections 35, 37, 44 and 48, the Tribunal shall have and exercise the same powers as are vested in a Civil Court in respect of— Powers of and procedure before Tribunal.

- (a) a proof of facts by affidavits ;
 (b) summoning and enforcing the attendance of any person and examining him on oath ;
 (c) compelling the production of documents ; and
 (d) issuing commissions for the examination of witnesses.

(2) In all proceedings before the Tribunal, the Tribunal shall follow the procedure as may be prescribed by rules made by the ¹[State] Government in this behalf.

(3) Every order made by the Tribunal for the payment of money except that for the recovery of which provision has been made in section 46 and for the delivery of the possession or removal of any structure shall be enforced by the Bombay City Civil Court in Greater Bombay and elsewhere by the District Court in the jurisdiction of which the land comprised in the housing scheme is situate as if it was the decree of the said Court.

XLV of 1860 (4) The proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code.

53. The decision of the Tribunal on any matter referred to it under this Act shall be final and shall not be questioned in any court of law. Decision of Tribunal to be final.

²[CHAPTER V-A.

POWER TO EVICT PERSONS FROM BOARD PREMISES.

³[53A1. The State Government may, by notification in the *Official Gazette*, appoint an officer who holds or has held office, which in its opinion is not lower in rank than that of a Deputy Collector or an Executive Engineer, to be the competent authority for performing the functions of the competent authority under this Chapter in such area, or in respect of such premises or class of premises, as may be specified in the notification, and more than one Officer may be appointed as competent authority in the same area in respect of different premises or different classes of premises.] Appointment of competent authorities.

53A. (1) If the competent authority is satisfied,—

(a) that the person authorised to occupy any Board premises has, * * * * * Power to evict certain persons from Board premises.

(i) not paid rent lawfully due from him in respect of such premises for a period of more than two months, or

(ii) sub-let, without the permission of the Board, the whole or any part of such premises, or]

⁵[(*iii*) committed, or is committing any act contrary to the provisions of clause (o) of section 108 of the Transfer of Property Act, 1882, or ⁶[to the provisions of the Maharashtra Apartment Ownership Act, 1970, or of any Declaration, Deed of Apartment or of the bye-laws made under that Act, or of any rules or regulations made under such bye-laws, or]

⁷[(*iv*) made, or is making, material additions to, or alterations in, such premises without the previous written permission of the Board, or]

¹ This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

² Chapter V-A containing section 53-A, 53-D was inserted by Bom. 32 of 1952, s. 6.

³ This section was inserted by Mah. 3 of 1964, s. 22.

⁴ The portion " whether before or after the commencement of the Bombay Housing Board (Amendment) Act, 1952 ", was deleted by Mah. 7 of 1963, s. 14.

⁵ These sub-clauses were inserted by Mah. 3 of 1964, s. 23.

⁶ This portion was added by Mah. 15 of 1971, Sch.

(iii) otherwise acted in contravention of any of the terms, express or implied under which he is authorised to occupy such premises, or

(b) that any person is in unauthorised occupation of any Board premises, the competent authority may, ^{1*} * * * * *
* * * * * by notice served (i) by post, (ii) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (iii) in such other manner as may be prescribed, order that that person as well as any other person who may be in occupation of the whole or any part of the premises, shall vacate them within one month of the date of the service of the notice.

²[(1A) Before an order under sub-section (1) is made against any person the competent authority shall inform the person by notice in writing of the grounds for which the proposed order is to be made and give him a reasonable opportunity of tendering an explanation and producing evidence, if any, and to show cause why such order should not be made, within a period to be specified in such notice. If such person makes an application to the competent authority for extension of the period specified in the notice, the competent authority may grant the same on such terms as to payment and recovery of the amount claimed in the notice as he deems fit. Any written statement put in by such person and documents produced in pursuance of such notice shall be filed with the record of the case and such person shall be entitled to appear before the officer proceeding in this connection by advocate, attorney or pleader. Such notice in writing shall be served in the manner provided for service of notice under sub-section (1).]

(2) If any person refuses or fails to comply with an order made under sub-section (1) the competent authority may evict that person from, and take possession of, the premises and may for that purpose use such force as may be necessary.

(3) If a person, who has been ordered to vacate any premises under sub-clause (i) or (iii) of clause (a) of sub-section (1) within one month of the date of service of the notice or such longer time as the competent authority may allow, pays to the Board the rent in arrears or carries out or otherwise complies with the terms contravened by him to the satisfaction of the competent authority, as the case may be, the competent authority shall, in lieu of evicting such person under sub-section (2) cancel its order made under sub-section (1) and thereupon such person shall hold the premises on the same terms on which he held them immediately before such notice was served on him.

³[*Explanation.*—For the purposes of this section and section 53B, the expression “unauthorized occupation”, in relation to any person authorized to occupy any Board premises, includes the continuance in occupation by him or by any person claiming through or under him of the premises after the authority under which he was allowed to occupy the premises has been duly determined.]

¹ The words “notwithstanding anything contained in any law for the time being in force,” were deleted by Mah. 28 of 1969, s. 2.

² Sub-section (1A) was inserted by Bom. 25 of 1955, s. 3(J).

³ The *Explanation* was added, *ibid.*, s. 3(2).

53B. (1) Subject to any rules made by the State Government in this behalf and without prejudice to the provisions of section 53A, where any person is in arrears of rent payable in respect of any Board premises, the competent authority may, by notice served (i) by post, or (ii) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (iii) in such other manner as may be prescribed, order that person to pay the same within such time not less than ten days as may be specified in the notice. If such person refuses or fails to pay the arrears of rent within the time specified in the notice, such arrears may be recovered as arrears of land revenue.

Power to recover rent or damages as arrears of land revenue.

(2) Where any person is in unauthorised occupation of any Board premises, the competent authority may, ¹[in the manner, and having regard to the principles of assessment of damages, prescribed in this behalf,] assess such damages on account of the use and occupation of the premises as it may deem fit, and may by notice served (i) by post, or (ii) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (iii) in such other manner as may be prescribed order that person to pay the damages within such time as may be specified in the notice. If any person refuses or fails to pay the damages within the time specified in the notice, the damages may be recovered from him as arrears of land revenue.

²[(3) No order shall be made under sub-section (2) until after the issue of a notice in writing to the person calling on him to show cause, within a reasonable period to be specified in such notice, why such order should not be made, and until his objections if any, and any evidence he may produce in support of the same have been considered by the competent authority.]

53BB. (1) Without prejudice to the provisions of section 53A, any person who is an employee of the State Government or a local authority and who has been allotted any Board premises, may execute an agreement in favour of the State Government providing that the State Government or the local authority, as the case may be, under or by whom he is employed, shall be competent to deduct from the salary or wages payable to him such amount as may be specified in the agreement and to pay the amount so deducted to the Board in satisfaction of the rent due by him in respect of the Board premises allotted to him.

Rent to be recovered from deductions from salary or wages in certain cases.

(2) On the execution of such agreement, the State Government or a local authority, as the case may be shall, if so required by the Board by requisition in writing make the deduction of the amount specified in the requisition from the salary or wages of the employee specified in the requisition in accordance with the agreement and pay the amount so deducted to the Board.

53C. (1) Any person aggrieved by an order of the competent authority under section 53A or section 53B may, within one month of the date of the service of the notice under section 53A or section 53B, as the case may be, prefer an appeal ³[to an appellate officer appointed for the purpose] :

Appeal.

¹ These words were substituted for the words " in the prescribed manner " by Mah. 3 of 1964, s. 24.

² Sub-section (3) was added by Bom. 25 of 1955, s. 4.

³ These words were substituted for the words " to the State Government " by Mah. 35 of 1973, 2(a)(i).

Provided that ¹[the appellate officer may] entertain the appeal after the expiry of the said period of one month, ²[if he is] satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), ³[the appellate officer] may after calling for a report from the competent authority, and after making such further inquiry, if any, as may be necessary, pass such orders ⁴[as he thinks] fit and the order of ³[the appellate officer] shall be final.

(3) Where an appeal is preferred under sub-section (1), ³[the appellate officer] may stay the enforcement of the order of the competent authority for such period and on such conditions ⁴[as he thinks] fit.

⁵[(4) For the purpose of this section, the State Government may, by notification in the *Official Gazette*, appoint one or more appellate officers for the whole of that part of the State in which this Act is in force, or for such area therein, as may be specified in the notification. An appellate officer shall be a person who is not below the rank of Deputy Secretary to Government and who had judicial experience or experience in the Legal Department of the State, ⁶[or who has worked as a Deputy Secretary for atleast five years] or who has held judicial office not below the rank of District Judge.

(5) All appeals pending before the State Government immediately before that commencement of the Bombay Housing Board and Madhya Pradesh Housing Board (Amendment) Ordinance, 1973, shall be transferred by it to the appellate officer concerned and shall be heard and disposed of by him as if they had been originally filed before him. The appellate officer may proceed to hear and dispose of any such appeal from the stage it reached before its transfer to him, or may commence the inquiry *de novo* by himself.]

Bar of jurisdiction of Civil Courts. ⁷[53D. No Civil Court shall have jurisdiction to entertain any suit or proceeding in respect of the eviction of any person from any Board premises under this Chapter or the recovery of the arrears of rent or damages for use or occupation of such premises, or in respect of any order made or to be made or any action taken or to be taken by the competent authority ⁸[the appellate officer] or the State Government in the exercise of any power conferred by or under this Chapter, or to grant any injunction in respect of such order or action.]

CHAPTER VI.

FINANCE, ACCOUNTS AND AUDIT.

Expenditure etc., till the Board is established. 54. (1) All debts and expenditure incurred, all contracts entered into and all matters and things engaged to be done by, with or for the ⁹[State] Government for the purposes of the Bombay Provincial Housing Board constituted by Government Resolution, Political and Services Department, No. 459/46, dated 18th January 1947 before and up to the date of the establishment of the Board under this Act shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Board ; and all suits and other legal proceedings instituted or which may be instituted by or against the ⁹[State] Government shall be continued or instituted by or against the Board, as the case may be.

¹ These words were substituted for the words " the State Government may " by Mah. 35 of 1973, s. 2(a)(ii).

² These words were substituted for the words " if it is ", *ibid.*

³ These words were substituted for the words " the State Government ", *ibid.*, s. 2.

⁴ These words were substituted for the words " as it thinks ", *ibid.*

⁵ Sub-sections (4) and (5) were added, *ibid.*, s. 2(d).

⁶ These words were inserted by Mah. 33 of 1975, s. 2.

⁷ Section 53-D was substituted by Mah. 28 of 1969, s. 3.

⁸ These words were inserted by Mah. 35 of 1973, s. 3.

⁹ This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

(2) All expenditure which the ¹[State] Government shall not later than six months from the date of the establishment of the Board, declare to have been incurred on capital account in connection with the purposes of this Act shall be deemed to be a loan advanced to the Board on the date of such declaration.

(3) All the assets entrusted to the Bombay Provincial Housing Board referred to in sub-section (1) for the purposes referred to in the Government Resolution specified in the said sub-section and all assets acquired by the expenditure referred to in sub-section (2) shall upon the declaration made by the ¹[State] Government under sub-section (2) vest in the Board for the purposes of this Act.

I of 1894. (4) All proceedings under the Land Acquisition Act, 1894, pending on the date of the coming into force of this Act in any area for the acquisition of land situated in the said area for the purposes of the Bombay Provincial Housing Board referred to in sub-section (1) shall be deemed to be proceedings for acquisition of such land for the purposes of the Board under this Act.

Mah. VII of 1963. ²[54A. (1) All debts and expenditure incurred, all contracts entered into and all matters and things engaged to be done by, with or for the State Government for the purposes of the tenements constructed under the schemes known as the Subsidised Industrial Housing Scheme and the Low Income Group Housing Scheme of the Government of India in the Hyderabad area of the State before, and up to the date of commencement of the Bombay Housing Board (Extension to Marathwada and Amendment) Act, 1962, shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Board, and all suits and other legal proceedings instituted or which may be instituted by or against the State Government shall be continued or as the case may be, instituted by or against the Board. Expenditure etc., in Hyderabad area of State till Board takes over.

(2) All expenditure which the State Government shall, not later than one year from the date of such commencement, declare to have been incurred on capital account in connection with the purposes of this Act shall be deemed to be a loan advanced to the Board on the date of such declaration.

(3) All the assets in respect of the Housing Schemes referred to in sub-section (1), and all assets acquired by the expenditure referred to in sub-section (2) upon the declaration made by the State Government under that sub-section, shall vest in the Board for the purposes of this Act.

¹ This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

² Section 54-A was inserted by Mah. 7 of 1963, s. 15.

(4) All proceedings under the Land Acquisition Act pending on the date of commencement of the Bombay Housing Board (Extension to Marathwada and Amendment) Act, 1962, in any part of the Hyderabad area of the State for the acquisition of land situated therein for the purposes of the Housing Schemes referred to in sub-section (1) shall be deemed to be proceedings for acquisition of such land for the purposes of the Board under this Act.]

Mah.
VII of
1963

55. (1) The Board shall have its own fund.

Board's
Fund.

(2) The Board may accept grants, subventions, donations and gifts from the Central or ¹[State] Government or a local authority or any individual or body, whether incorporated or not for all or any of the purposes of this Act.

(3) All moneys received by or on behalf of the Board by virtue of this Act, all proceeds of land or any other kind of property sold by the Board, all rents, betterment charges and all interest, profits and other moneys accruing to the Board shall constitute the fund of the Board.

(4) Except, as otherwise directed by the ¹[State] Government, all moneys and receipts specified in the foregoing provisions and forming part of the fund of the Board shall be deposited in the Reserve Bank of India or in any scheduled bank or invested in such securities as may be approved by the ¹[State] Government.

(5) Such account shall be operated upon by such officers as may be authorised by the Board.

II of
1934. *Explanation.*—For the purposes of this section, the Reserve Bank of India shall mean the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934, and a scheduled bank shall mean a bank included in the Second Schedule to the said Act.

56. All property, fund and all other assets vesting in the Board shall be held and applied by it. subject to the provisions and for the purposes of this Act.

Application
of the fund.

57. (1) Where in the opinion of the Board. circumstances of extreme urgency have arisen, it shall be lawful for the Board to make in any year,—

Expenditure
in case of
urgency.

(a) recurring expenditure not exceeding twenty-five thousand rupees,

(b) non-recurring expenditure not exceeding one lac of rupees, * * * * *

(2) Where any sum is expended under circumstances of extreme urgency as provided in sub-section (1), a report thereof indicating the source from which it is proposed to meet the expenditure shall be made by the Board as soon as practicable to the ¹[State] Government.

58. (1) The ¹[State] Government may from time to time make subvention to the Board for the purposes of this Act on such terms and conditions as the ¹[State] Government may determine.

Subventions
and loans to
the Board.

¹ This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

² The portion beginning with the word " notwithstanding " and ending with the word and figures " section 31 " was deleted by Mah. 3 of 1964, s. 25.

(2) The ¹[State] Government may from time to time advance loans to the Board on such terms and conditions not inconsistent with the provisions of this Act as the ¹[State] Government may determine.

Power of Board to borrow. 59. (1) The Board may from time to time, with the previous sanction of the ¹[State] Government and subject to the provisions of this Act, and to such conditions as may be prescribed in this behalf borrow any sum required for the purposes of this Act.

(2) The rules made by the ¹[State] Government for the purposes of this section may empower the Board to borrow by the issue of debentures and to make arrangements with bankers.

(3) All debentures issued by the Board shall be in such form as the Board, with the sanction of the ¹[State] Government, may from time to time determine.

(4) Every debenture shall be signed by the Chairman and one other member of the Board.

(5) Loans borrowed and debentures issued under this section may be guaranteed by the ¹[State] Government as to the repayment of principal and the payment of interest at such rate as may be fixed by the ¹[State] Government.

Accounts and audit. 60. (1) The Board shall cause to be maintained proper books of accounts and such other books as the rules may require and shall prepare in accordance with the rules and annual statement of accounts.

²[(2) The Board shall cause its accounts to be audited annually by such person as the ¹[State] Government may direct.] ³[The person so directed shall have the right to demand the production of books, accounts, and connected vouchers, documents and papers, and to inspect any of the offices of the Board.]

(3) As soon as the accounts of the Board have been audited, the Board shall send a copy thereof together with a copy of the report of the audit or thereon to the ¹[State] Government; and shall cause the accounts to be published in the prescribed manner and place copies thereof on sale at a reasonable price.

(4) The Board shall comply with such directions as the ¹[State] Government may after perusal of the report of auditor think fit to issue.

Concurrent and special audit of accounts. ⁴[60A. (1) Notwithstanding anything contained in section 60, the State Government may order that there shall be a concurrent audit of the accounts of the Board by such person as it thinks fit. The State Government may also direct a special audit to be made by such person as it thinks fit of the accounts of the Board relating to any particular transaction or a class or series of transactions or to a particular period.]

(2) When an order is made under sub-section (1), the Board shall present or cause to be presented for audit such accounts and shall furnish to the person appointed under sub-section (1) such information as the said person may require for the purpose of audit ⁵[and remedy or cause to be remedied the defects pointed out by such person, unless they are condoned by the State Government.]]

¹ This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

² This sub-section was substituted for the original by Bom. 19 of 1949, s. 4.

³ These words were added by Mah. 3 of 1964, s. 26.

⁴ Section 60-A was inserted by Bom. 49 of 1950, s. 2.

⁵ These words were added by Mah. 3 of 1964, s. 27.

CHAPTER VII.

MISCELLANEOUS.

61. The Board shall, before such date and in such form and at such interval as Reports may be prescribed, submit to the ¹[State] Government a report on such matters as may be prescribed, and the ¹[State] Government shall cause such report to be published in the *Official Gazette*. ²[Every such report shall be laid before each House of the State Legislature as soon as may be after it is published.]

62. The Board shall also submit to the ¹[State] Government such statistics, Other state-returns, ³[particulars, statements, documents or papers in regard to any proposed returns. or existing scheme or relating to any matter or proceedings connected with the working of the Board] at such times and in such form and manner as may be prescribed or as the ¹[State] Government may from time to time direct.

63. The Chairman or any person either generally or specially authorised by the Chairman in this behalf may, with or without assistants or workmen, enter into or upon any land, in order—

- (a) to make any inspection, survey, measurement, valuation or inquiry;
 - (b) to take levels;
 - (c) to dig or bore into the sub-soil;
 - (d) to set boundaries and intended lines of work;
 - (e) to make such levels, boundaries and lines of works and cutting trenches; or
 - (f) to do any other thing;
- whenever it is necessary to do so for any of the purposes of this Act or any rules made or scheme sanctioned thereunder:

Provided as follows:—

- (i) no such entry shall be made between sunset and sunrise;
- (ii) no dwelling house and no public building which is used as a dwelling place, shall be so entered, unless with the consent of the occupier thereof, and without giving the said occupier at least twenty-four hours' previous written notice of the intention to make such entry;
- (iii) sufficient notice shall in every instance be given, even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to females to remove themselves to some part of the premises where their privacy will not be disturbed;
- (iv) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

¹ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

² This portion was added by Bom. 32 of 1952, s. 7.

³ These words were substituted for the portion beginning with the words "particulars or statements" and ending with the words "housing schemes" by Mah. 3 of 1964, s. 28.

Notice of
suit against
Board.

64. No person shall commence any suit against the Board or against any officer or servant of the Board or any person acting under the orders of the Board, for anything done or purporting to have been done in pursuance of this Act, without giving to the Board, officer or servant or person two months' previous notice in writing of the intended suit and of the cause thereof, nor after six months from the date of the act complained of.

And in the case of any such suit for damages, if tender of sufficient amends shall have been made before the action was brought, the plaintiff shall not recover more than the amounts so tendered and shall pay all costs incurred by the defendant after such tender.

²[Valuation]
of assets and
liabilities of
the Board.

65. The Board shall ¹[at the end of every five years] have a valuation of its assets and liabilities made by a valuer appointed with the approval of the ³[State] Government:

Provided that it shall be open to the ³[State] Government to direct a valuation to be made at any time it may consider necessary.

Power to
make rules.

66. (1) The ³[State] Government may, by notification in the *Official Gazette* and subject to the condition of previous publication, make rules* for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may be made for all or any of the following purposes, namely:—

(a) the allowances of members and remuneration and conditions of service of the Chairman under section 7;

⁴[(aa) the rates of subscriptions and contributions and other conditions of the provident fund established under section 13A;]

(b) the manner and form in which contracts shall be entered into under section 22;

⁵[(c) the form of the annual budget to be laid before the Board under section 26 and the other particulars to be contained therein;]

⁶[(d) the manner of publication of housing schemes included in the budget under section 30;]

(e) the form of notice under section 44;

(f) the rate of interest under section 45;

(g) the other matters to be decided by the Tribunal under section 50;

(h) the procedure to be followed by the Tribunal under section 52;

¹ These words were substituted for the word "triennially" by Mah. 3 of 1964, s. 29 (1).

² This word was substituted for the words "Triennial valuation" *ibid.*, s. 29 (2).

³ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

⁴ This clause was inserted by Bom. 46 of 1951, s. 6.

⁵ This clause was substituted for the original by Mah. 3 of 1964, s. 30 (1).

⁶ This clause was substituted for the original, *ibid.*, s. 30 (2).

* Section 21 of Mah. 7 of 1963 reads as under:—

Rules and
regulations
deemed to
be made for
whole area
to which the
principal Act
extends.

"21. The rules and the regulations made under the principal Act and in force in the Bombay area of the State immediately before the commencement of the Bombay Housing Board (Extension to Marathwada and Amendment) Act, 1962, shall (in so far they are not inconsistent with the provisions of the principal Act as amended by the aforesaid Extension and Amendment Act of 1962) be deemed to extend to and be in force in the whole area to which the principal Act as so amended now extends, until duly superseded or amended."

¹[(*ha*) the forms of notices under sections 53A and 53B and any other manner in which they may be served;

(*hb*) the procedure to be followed in taking possession of any Board premises under section 53A;

(*hc*) the manner in which damages under section 53B may be assessed;

(*hd*) the manner in which appeals may be preferred under section 53C and the procedure to be followed in such appeals;]

(*i*) the conditions subject to which the Board may borrow any sum under section 59;

(*j*) the manner of preparation, maintenance and publication of accounts under section 60;

(*k*) the date before which, the form in which, the interval at which and the matters on which reports shall be submitted under section 61;

(*l*) the time at which and the form and manner in which statistics, returns, particulars, ²[Statements, documents and papers] shall be submitted under section 62;

³[(*ll*) the manner in which the Board shall be superseded and reconstituted under section 73B;]

(*m*) and other matter which is or may be prescribed under this Act.

⁴[(3) Every rule made under this section shall be laid as soon as may be, after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and, if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall from the date of publication of a notification in the *Official Gazette* of such decision, have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.]

67. ⁵[(1)] The Board may from time to time, with the previous sanction of the ⁶[State] Government, make regulations consistent with this Act and with any rules made under this Act—

(*a*) for the management and use of buildings constructed under any housing scheme;

(*b*) the principles to be followed in allotment of tenements and premises;

⁷[(*b-1*) for the sale, lease, exchange or otherwise disposal of any land, building or any apartment therein or other property belonging to or vesting in the Board, subject to such terms and conditions and to restrictions as the Board may from time to time provide in the regulations;]

¹ Clauses (*ha*) to (*hd*) were inserted by Bom. 32 of 1952, s. 8.

² These words were substituted for the words "and statements" by Mah. 3 of 1964, s. 30 (3).

³ Clause (*ll*) was inserted by Bom. 49 of 1950, s. 3.

⁴ Sub-section (3) was added by Mah. 7 of 1963, s. 16.

⁵ Section 67 was renumbered as sub-section (*l*) by Mah. 3 of 1964, s. 31.

⁶ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

⁷ Clause (*b-1*) was inserted by Mah. 15 of 1971, Sch.

(c) the remuneration and conditions of service of the ¹ * * * Housing Commissioner and other officers and servants of the Board under section 13;

(d) for regulating its procedure and the disposal of its business.

²[(2) If it appears to the State Government that it is necessary or desirable for carrying out the purposes of this Act to make any regulation in respect of matters specified in sub-section (1) or to amend any regulation made under that sub-section, it may call upon the Board to make such regulation or amendment within such time as it may specify. If the Board fails to make such regulation or amendment within the time specified, the State Government may itself make such regulation or amendment and the regulation or the amendment so made shall be deemed to have been made by the Board under sub-section (1).]

Power to make by-laws. **68.** (1) The Board may make by-laws, not inconsistent with this Act, which may be necessary or expedient for the purpose of carrying out its duties and functions under this Act.

(2) A by-law made under this section may provide that a contravention thereof shall be an offence.

(3) No by-law made by the Board shall come into force until it has been confirmed by the ³[State] Government with or without modification.

(4) All by-laws made under this section shall be published in the *Official Gazette*.

Penalty for contravention of by-laws. **69.** Whoever contravenes a by-law made under section 68 shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Penalty for obstructing, etc. **70.** If any person—

(a) obstructs or molests any person with whom the Board has entered into a contract, in the performance or execution by such person of his duty or of anything which he is empowered or required to do under this Act, or

(b) removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorized under this Act, he shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

Penalty for obstructing exercise of powers under Chapter V-A. **4**[70A. Any person who obstructs the lawful exercise of any power conferred by or under Chapter V-A shall, on conviction, be punished with fine which may extend to one thousand rupees.]

¹ The word "Secretary" was deleted by Mah. 3 of 1964, s. 31(1).

² This sub-section was added, *ibid.*, s. 31(2).

³ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

⁴ Section 70A was inserted by Bom. 32 of 1952, s. 9.

71. Unless otherwise expressly provided, no Court shall take cognisance of any offence punishable under this Act except on the complaint of, or upon information received from, the Board or some person authorized by the Board by general or special order in this behalf.

Authority for prosecution.

72. All members, officers and servants of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

XLV
of
1860.

Members, officers and servants of the Board to be public servants.

73. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or purported to be done under this Act.

Protection of action taken under this Act.

¹[73A. The State Government may give the Board such directions as in its opinion are necessary or expedient for carrying out the purposes of this Act, ² * * * * * It shall be the duty of the Board to comply with such directions.]

Government's power to give directions to Board.

³[73AA. (1) The State Government with a view to satisfy itself that the powers and duties of the Board are being exercised and performed properly, may, at any time, appoint any person or persons to make inquiries into all or any of the activities of the Board and to report to the State Government the result of such inquiries.

Power to order inquiries.

(2) The Board shall give to the person or persons so appointed all facilities for the proper conduct of the inquiries and shall produce before the person or persons any document, account or information in the possession of the Board, which such person or persons demand for the purposes of the inquiries.]

¹[73B. (1) If the State Government is satisfied that the Board has made default in performing any duty imposed on it by or under this Act, it may fix a period for the performance of that duty.

Default in performance of duty.

(2) If in the opinion of the State Government the Board fails or neglects to perform such duty within the period so fixed for its performance, it shall be lawful for the State Government, notwithstanding anything contained in section 7, to supersede and reconstitute the Board in the prescribed manner.

(3) After the supersession of the Board and until it is reconstituted the powers, duties and functions of the Board under this Act shall be carried on by the State Government or by such officer or officers as the State Government may appoint for this purpose.]

⁴[73BB. (1) If by reason of death, resignation or otherwise, it appears to the State Government that the Board is unable to exercise the powers or perform or discharge the duties or functions conferred or imposed upon it by or under this Act, and the State Government does not consider it expedient to reconstitute the Board or fill the vacancies, the State Government may, notwithstanding anything contained in section 4 or any other provision of this Act, by notification in the *Official Gazette*, in place of the Board constituted under section 4, appoint an Administrator

Power to appoint Administrator.

¹ Sections 73A and 73B were inserted by Bom. 49 of 1950, s. 4.

² The portion beginning with the words "after giving an opportunity" and ending with the words "the said objections" were deleted by Mah. 3 of 1964, s. 32.

³ Section 73AA was inserted, *ibid.*, s. 33.

⁴ Section 73BB was inserted by Mah. 56 of 1969, s. 2.

for such period or periods, ¹[not exceeding four years] in the aggregate, as that Government may specify from time to time in that behalf. After the expiry of his term of office, the Administrator shall continue in office until the day immediately preceding the date of the first meeting of the Board reconstituted in accordance with the provisions of section 4.

(2) The Administrator so appointed shall be deemed to constitute the Board for the time being, and shall exercise all the powers and perform and discharge all the duties and functions conferred and imposed upon the Board or any of its authorities, members or officers by or under this Act, or any other law for the time being in force.

(3) The Administrator shall receive such remuneration from the fund of the Board, and the other conditions of service shall be such, as the State Government may determine.

(4) The Administrator may, subject to the general or special order of the State Government, delegate any of the powers, duties and functions exercisable or to be performed by him, to the Housing Commissioner or any other officer or officers of the Board.

(5) The State Government may, if it thinks fit, appoint an advisory council to advise and assist the Administrator in the exercise of his powers and the performance and discharge of his duties and functions. The members of the advisory council shall hold office during the pleasure of the State Government and shall be paid such remuneration (if any) as may be fixed by the State Government in that behalf.]

Dissolution of the Board. 74. (1) The ²[State] Government may, by notification in the *Official Gazette*, declare that, with effect from such date as may be specified in the notification, the Board shall be dissolved :

Provided that no such declaration shall be made by the ²[State] Government unless a resolution to that effect has been moved in and passed by the ³[Maharashtra Legislative Assembly].

(2) With effect from the date specified in the notification under sub-section (1)—

(a) all properties, funds and dues which are vested in or realizable by the Board shall vest in and be realizable by the ²[State] Government.

(b) all liabilities enforceable against the Board shall be enforceable against the ²[State] Government to the extent of the properties, funds and dues vested in and realized by the ²[State] Government.

(3) Nothing in this section shall affect the liability of the ²[State] Government in respect of loans or debentures guaranteed under sub-section (5) of section 59.

Legislature member not entitled to receive any remuneration other than compensatory allowance. ⁴74A. Notwithstanding anything contained in sections 4 and 7, if a member of the State Legislature is appointed as a member of the Board (including the Chairman thereof), he shall not be entitled to receive any remuneration other than travelling allowance, daily allowance or such other allowance which is paid to a member of the Board for the purpose of meeting the personal expenditure incurred in attending the meeting of the Board or in performing any other functions as such member.

¹ These words were substituted for the words "not exceeding three years" by Mah. 23 of 1972, s. 2.

² This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

³ These words were substituted for the words "Bombay Legislative Assembly" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

⁴ Sections 74A and 74B were inserted by Mah. 10 of 1964, s. 2.

74B. In the Bombay Legislature Members (Removal of Disqualifications) Act, 1956, in Schedule I, after entry 14, the following entry shall be inserted, namely :—

Amendment of Schedule I of Bom. LII of 1956.

“ 15. The office of a member of the Maharashtra Housing Board (including, the Chairman thereof) constituted under the Bombay Housing Board Act, 1948, by reason only of his holding such office.”]

75. The enactments mentioned in the third column of ¹[the First Schedule] appended to this Act are hereby amended to the extent and in the manner mentioned in the fourth column, thereof.

Amendment of Bom. III of 1888, Bom. I of 1915 and Bom. XXX of 1948.

²[76. On the commencement of the Bombay Housing Board (Extension to Marathwada and Amendment) Act, 1962, the enactments mentioned in the third column of the Second Schedule to this Act are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

Amendment of Hyd. XVIII of 1956 and Mah. V of 1962.

77. The Hyderabad Housing Board Act, 1956 is hereby repealed.]

Repeal of Hyd. XLVI of 1956.

³[FIRST SCHEDULE]

(Section 75)

Year 1	No. 2	Short title 3	Amendment 4
1888	III	The City of Bombay Municipal Act, 1888.	After section 354C, the following new section shall be inserted, namely:— “ 354C. Notwithstanding anything contained in this Chapter, no improvement scheme shall be made for any area for which housing scheme has been sanctioned under the provisions of the Bombay Housing Board Act, 1948.”
			No improvement scheme for area for which housing schemes sanctioned under Bom. LXIX of 1948.
1915	I	The Bombay Town Planning Act, 1915.	After section 8, the following new section shall be inserted, namely:— “ 8A. Notwithstanding anything contained in this Act, no town planning scheme shall be made for any area for which a housing scheme has been sanctioned under the provisions of the Bombay Housing Board Act, 1948.”
			No town planning schemes for areas for which housing schemes sanctioned under Bom. LXIX of 1948.
1948	XXXI	The Bombay Building (Control on Erection, Re-erection and Conversion) Act, 1948.	After section 14, the following new section shall be inserted, namely:— “ 14A. Notwithstanding anything contained in this Act, the ⁴ [State] Government may direct that the powers conferred and duties imposed upon the Controller under this Act, shall in the area in which the Bombay Housing Board Act, 1948, has come into force, be exercised and performed by the Housing Board constituted under the said Act.”
			Delegation of Controller's powers to Housing Board constituted under Bom. LXIX of 1948.

¹ These words were substituted for the words “ the Schedule ” by Mah. 7 of 1963, s. 17.

² Sections 76 and 77 were inserted, *ibid.*, s. 18.

³ These words were substituted for the word “ Schedule,” *ibid.*, s. 19.

⁴ This word was substituted for the word “ Provincial ” by the Adaptation of Laws Order, 1950.

I[SECOND SCHEDULE]

(Section 76)

Year 1	No. 2	Short title 3	Amendment 4
1956	XVIII	The Hyderabad District Municipalities Act, 1956.	After section 251, the following section shall be inserted, namely:— “ 251A. Notwithstanding anything contained in this Act, no Master Plan, Town Development Plan or local layout shall be made for any area for which a housing scheme has been sanctioned under the Bombay Housing Board Act, 1948.” No Master Plan, etc. for areas for which housing schemes sanctioned under Bom. LXIX of 1948.
1962	V	The Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961.	After section 226, the following section shall be inserted, namely:— “ 226A. Notwithstanding anything contained in this Act, no regional or village plan or local layout shall be made for any area for which a housing scheme has been sanctioned under the Bombay Housing Board Act, 1948.” No Regional Plan etc. for areas for which housing schemes sanctioned under Bom. LXIX of 1948.

¹ Second Schedule was added by Mah. 7 of 1963, s. 20.